

AMENDED IN SENATE JUNE 16, 2009

AMENDED IN ASSEMBLY MAY 14, 2009

AMENDED IN ASSEMBLY APRIL 22, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

## ASSEMBLY BILL

**No. 957**

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**Introduced by Assembly Member Galgiani**

February 26, 2009

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An act to add Article 1.8 (commencing with Section 1103.20) to Chapter 2 of Title 4 of Part 4 of Division 2 of, and to repeal Section 1103.21 of, the Civil Code, relating to real property, *and declaring the urgency thereof, to take effect immediately.*

### LEGISLATIVE COUNSEL'S DIGEST

AB 957, as amended, Galgiani. Residential real estate transfers: title insurance: escrow companies.

Existing law generally regulates the transfer of real property, and imposes specified obligations on a seller of real property. Existing law authorizes a mortgagee or beneficiary under a deed of trust to sell property securing the mortgage or deed of trust at a foreclosure sale under certain circumstances. Existing federal law prohibits a seller of property that will be purchased with the assistance of a federally related mortgage loan from requiring the buyer to purchase insurance from any particular company.

This bill would enact the Buyer's Choice Act, which would prohibit, until January 1, 2015, a mortgagee, beneficiary under a deed of trust, or other person who acquired title to residential real property at a foreclosure sale from, as a condition of *receiving offers or* selling that real property to a buyer, requiring the buyer to purchase title insurance

~~or, escrow services, or a Natural Hazard Disclosure Statement~~ in connection with the sale from a company chosen by the seller. A seller who violates these provisions would be liable to the buyer for an amount equal to 3 times all charges made for the title insurance ~~or, escrow services, or a Natural Hazard Disclosure Statement. The bill would provide that the provisions described above, on and after January 1, 2015, do not apply to the use of escrow services.~~

*This bill would declare that it is to take effect immediately as an urgency statute.*

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Article 1.8 (commencing with Section 1103.20)  
2 is added to Chapter 2 of Title 4 of Part 4 of Division 2 of the Civil  
3 Code, to read:

4  
5 Article 1.8. Buyer's Choice Act

6  
7 1103.20. This article shall be known, and may be cited, as the  
8 Buyer's Choice Act.

9 1103.21. (a) A seller shall not, directly or indirectly, as a  
10 condition of *receiving offers or* selling residential real property to  
11 a buyer, require the buyer to purchase title insurance ~~or, escrow~~  
12 ~~services, or a Natural Hazard Disclosure Statement~~ in connection  
13 with the sale of that property from a company chosen by the seller.

14 (b) For purposes of this section, "seller" means a mortgagee,  
15 beneficiary under a deed of trust, or other person who acquired  
16 title to residential real property at a foreclosure sale, including a  
17 trustee, agent, officer, or other employee of any such mortgagee,  
18 beneficiary, or other person.

19 (c) A seller who violates this section shall be liable in an amount  
20 equal to three times all charges made for the title insurance ~~or~~  
21 ~~escrow service, escrow service, or a Natural Hazard Disclosure~~  
22 ~~Statement.~~ In addition, any person who violates this section shall  
23 be deemed to have violated his or her license law and shall be  
24 subject to discipline by his or her licensing entity.

1 (d) A transaction subject to this section shall not be invalidated  
2 solely because of the failure of any person to comply with any  
3 provision of this act.

4 (e) *This section does not affect any duty or obligation that*  
5 *follows from Section 1103.1, nor any liability waived pursuant to*  
6 *Section 1103.4.*

7 (e)

8 (f) This section shall remain in effect only until January 1, 2015,  
9 and as of that date is repealed, unless a later enacted statute, that  
10 is enacted before January 1, 2015, deletes or extends that date.

11 ~~1103.21. (a) A seller shall not, directly or indirectly, as a~~  
12 ~~condition of selling residential real property to a buyer, require~~  
13 ~~the buyer to purchase title insurance in connection with the sale~~  
14 ~~of that property from a company chosen by the seller.~~

15 ~~(b) For purposes of this section, "seller" means a mortgagee,~~  
16 ~~beneficiary under a deed of trust, or other person who acquired~~  
17 ~~title to residential real property at a foreclosure sale, including a~~  
18 ~~trustee, agent, officer, or other employee of any such mortgagee,~~  
19 ~~beneficiary, or other person.~~

20 ~~(c) A seller who violates this section shall be liable in an amount~~  
21 ~~equal to three times all charges made for the title insurance. In~~  
22 ~~addition, any person who violates this section shall be deemed to~~  
23 ~~have violated his or her license law and shall be subject to~~  
24 ~~discipline by his or her licensing entity.~~

25 ~~(d) A transaction subject to this section shall not be invalidated~~  
26 ~~solely because of the failure of any person to comply with any~~  
27 ~~provision of this act.~~

28 ~~(e) This section shall become operative January 1, 2015.~~

29 *SEC. 2. This act is an urgency statute necessary for the*  
30 *immediate preservation of the public peace, health, or safety within*  
31 *the meaning of Article IV of the Constitution and shall go into*  
32 *immediate effect. The facts constituting the necessity are:*

33 *In order to enact provisions designed to ensure that residential*  
34 *homebuyers are not required to purchase title insurance, escrow*  
35 *services, or a Natural Hazard Disclosure Statement as soon as*  
36 *possible, it is necessary that this act take effect immediately.*